

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Roschke *et al.*

Appl. No.: 10/067,800

Filed: February 8, 2002

For: **Human G-Protein Chemokine
Receptor (CCR5) HDGMR10**



Confirmation No. 8493

Art Unit: 1649

Examiner: Sharon L. Turner

Atty. Docket: 1488.115000I/EKS/HCC

**Request for Reconsideration of Patent Term Adjustment
Determination Under 37 C.F.R. § 1.705(b)**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Mail Stop Issue Fee

Sir:

Pursuant to 37 C.F.R. §§ 1.705(b)(1) and (b)(2), Applicants provide a concise statement of facts involved, as well as payment of fees set forth in 37 C.F.R. § 1.18(e).

Statement of the Facts:

Applicants hereby request that the Patent Term Adjustment for the captioned application be corrected to allow an addition of 28 days to the current Patent Term Adjustment of 503 days, such that the total Patent Term Adjustment, as of the payment of the issue fee, will be 531 days.

The U.S. Patent and Trademark Office (PTO) mailed a Notice of Allowance and Fee(s) Due on January 12, 2006. This Notice contained a determination of Patent Term Adjustment under 35 U.S.C. § 154(b), which incorrectly indicated that the Patent Term Adjustment (PTA) to the date of the Notice of Allowance and Fee(s) Due was five-hundred three (503) days.

According to PAIR, the calculation of 503 days is based on a PTO delay of 546 days (37 C.F.R. § 1.703(a)(1)) reduced by an Applicant delay of 43 days (37 C.F.R. § 1.704(c)(8)).

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Applicants believe that the PTO delay of 546 days should be increased by 28 days to 574 days. PAIR indicates that a PTO delay of 546 days is based on the mailing of a Restriction Requirement on October 5, 2004. However, the Restriction Requirement was incomplete, and therefore was withdrawn and a new Restriction Requirement was mailed on November 2, 2004. Therefore, the PTO delay in this instance should be calculated as the number of days in the period beginning on the day that is fourteen months after the date on which the application was filed and ending on the date of mailing of the Restriction Requirement, or the period between April 8, 2003 and November 2, 2004, which is equal to 574 days rather than 546 days.

Applicants believe that the information currently recorded in the PAIR system correctly indicates an Applicant delay of 43 days caused by Applicants' filing of an Information Disclosure Statement (IDS) on February 15, 2005, after the filing on January 3, 2005 of the Response to the Restriction Requirement.

Other than the above-mentioned Applicant delay of 43 days, Applicants do not believe there were any additional circumstances during the prosecution of the application that constituted a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 C.F.R. § 1.704(c).

The above-captioned application is not subject to a terminal disclaimer. 37 C.F.R. § 1.705(b)(2)(iii).

The Precise Relief Requested:

In view of above, Applicants are entitled, to date, to a patent term adjustment of a total of 531 days (574 days reduced by 43 days).

In accordance with 37 C.F.R. § 1.705(b)(1), the fee set forth in 37 C.F.R. § 1.18(e) is provided in our accompanying Credit Card Payment Form PTO-2038. It is not believed that additional fees are required beyond those that may otherwise be provided in documents accompanying this paper. However, if additional fees are required, the U.S. Patent and Trademark Office is hereby authorized to charge any fee deficiency, or credit any overpayment, to our Deposit Account No. 19-0036.

If it is believed, for any reason, that personal communication will expedite consideration of this Request, please do not hesitate to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Request is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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Date: April 11, 2006

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